



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100
Boston, MA 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

JAN 03 2012

David Wechsler

President

Maritime Terminal Inc., Maritime International, Inc., and Connecticut Freezers, Inc.

276 Macarthur Drive

New Bedford, MA 02740

John Ciardi

Manager

Maritime Terminal Inc. d/b/a Connecticut Freezers

1 Brewery Street

New Haven, CT 06511-5935

Re: Notice of Violation, Administrative Order, and Reporting Requirement Pursuant to
the Clean Air Act

Dear Messieurs Wechsler and Ciardi:

During the Environmental Protection Agency's June 21, 2011 inspection of the Connecticut Freezers facility in New Haven, Connecticut, my staff observed violations of the "General Duty Clause" of the Clean Air Act ("CAA"), found at Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1). Pursuant to the General Duty Clause, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to (1) identify hazards which may result from accidental releases of such substances, using appropriate hazard assessment techniques; (2) design and maintain a safe facility taking such steps as are necessary to prevent releases; and (3) minimize the consequences of accidental releases that do occur.

Enclosed please find a Notice of Violation, Administrative Order, and Reporting Requirement ("NOV/AO/RR") that the Environmental Protection Agency, Region 1, has issued to Maritime International, Inc., Maritime Terminal Inc. d/b/a Connecticut Freezers, and Connecticut Freezers, Inc. for violations of the General Duty Clause. Specifically, EPA has found that the companies did not identify hazards at the facility, using recognized hazard assessment techniques; maintain documentation about the refrigeration system that was sufficient to adequately maintain and inspect refrigeration components; have in place a sufficiently

comprehensive preventative maintenance program; and appropriately label refrigeration system components. Respondents likely also violated Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9603, by not reporting the release to the National Response Center on time, but that violation is not addressed in this document, which is CAA-specific.

The document also includes an information request pursuant to CAA Section 114(a)(1), 42 U.S.C. § 7414(a)(1), which requires submittal of hazard analyses for the Connecticut Freezers facility as well as for Hartford Freezers, West Terminal, and Bridge Terminal.

A guidance that further explains the requirements of the General Duty Clause may be found at www.epa.gov/emergencies/docs/chem/gdcregionalguidance.pdf. Also, the International Institute of Ammonia Refrigeration has issued guidance for those facilities having less than 10,000 pounds of ammonia that can help such facilities comply with the General Duty Clause. See *The Ammonia Refrigeration Management Program*, available through www.iiar.org.

My staff recently received information that the Connecticut Freezers facility may soon be shut down and sold. The AO requirements anticipate this possibility.

Note that the issuance of the NOV/AO/RR does not preclude EPA from electing to pursue further enforcement pursuant to the CAA, the Emergency Planning and Community-Right-to-Know Act; the Comprehensive Environmental Response, Compensation and Liability Act; or any other federal statute that may apply.

If you have questions about this letter or the enclosed documents, please call Jim Gaffey at (617) 918-1753 or have your counsel call Catherine Smith, Esq. at (617) 918-1777. You may request an opportunity to confer with EPA within seven days of receiving this NOV/AA/RR by contacting Jim Gaffey or Catherine Smith at the telephone numbers listed above.

Sincerely,

Susan Studlien
Director, Office of Environmental Stewardship
EPA Region 1 – New England

cc: Catherine Smith, EPA
Leonard Wallace, EPA
Carlos Rita, Maritime International
Robert W. Girard, CT DEEP

Enclosures:

- (1) Notice of Violation and Administrative Order
- (2) Small Business Resources sheet

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND**

IN THE MATTER OF

Maritime International Inc.
Maritime Terminal, Inc. d/b/a Connecticut
Freezers
Connecticut Freezers, Inc.
1 Brewery Street
New Haven, CT 06511

Proceeding under Sections
113 and 114 of the Clean Air Act

**NOTICE OF VIOLATION,
ADMINISTRATIVE ORDER,
AND
REPORTING REQUIREMENT**

INTRODUCTION

1. The United States Environmental Protection Agency Region 1 (“EPA”) issues this Notice of Violation, Administrative Order and Reporting Requirement (“NOV,” “AO,” and “RR”) to Maritime Terminal, Inc. doing business as Connecticut Freezers (“Maritime d/b/a Connecticut Freezers”), Maritime International Inc. (“Maritime International”), and Connecticut Freezers, Inc. (collectively “Respondents”), for Respondents’ failure to comply with Section 112(r)(1) of the Clean Air Act, 42 U.S.C. § 7412(r)(1), in the handling of ammonia at the companies’ New Haven, Connecticut, cold storage warehouse.

2. The NOV and AO are issued under the authority of Section 113 of the CAA, 42 U.S.C. § 7413. The RR is issued under the authority of Section 114 of the CAA, 42 U.S.C. § 7414. Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), provides that EPA may issue an order requiring compliance with the requirements or prohibitions of Subchapter I of the Act (which include, among other things, the requirements of

Section 112(r), 42 U.S.C. § 7412(r)). Section 114(a)(1), 42 U.S.C. § 7414(a)(1), authorizes EPA to require a company to submit such information and conduct such reporting or auditing as EPA may reasonably require to determine compliance with the CAA and carry out the purposes of the CAA.

STATUTORY AND REGULATORY AUTHORITY

3. Pursuant to Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty to (a) identify hazards which may result from accidental releases of such substances using appropriate hazard assessment techniques; (b) design and maintain a safe facility taking such steps as are necessary to prevent releases; and (c) minimize the consequences of accidental releases that do occur. This section of the CAA is referred to as the “General Duty Clause.”

4. The extremely hazardous substances listed pursuant to Section 112(r)(3) include, among others, anhydrous ammonia.

5. Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), authorizes EPA to issue compliance orders for violations of the Act, including violations of Section 112(r), 42 U.S.C. § 7412(r). A copy of the order must be sent to the relevant State air pollution control agency. An order relating to a violation of Section 112 of the CAA can take effect immediately upon issuance.

GENERAL ALLEGATIONS

6. Respondent, Connecticut Freezers, Inc. owns a cold storage warehouse at 1 Brewery Street in New Haven, Connecticut (the "Facility"). Respondent, Maritime d/b/a Connecticut Freezers, operates the Facility. Likewise, Maritime International Inc. operates the Facility.

7. The Facility is located near Interstate Route 95, a railway line, a post office, and other businesses, including an IKEA store.

8. Respondent, Maritime d/b/a Connecticut Freezers, is a foreign corporation organized under the laws of the Rhode Island, with its principal office located in New Bedford, Massachusetts. Likewise, Respondent, Maritime International, is a foreign corporation organized under the laws of Rhode Island, with its principal office located in New Bedford, Massachusetts. Respondent, Connecticut Freezers, Inc. is a domestic corporation registered in Connecticut with a principal address in New Bedford, Massachusetts. As corporations, each Respondent is a "person" within the meaning of Section 302(e), against whom an Administrative Order may be issued under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3).

9. Respondents own and/or operate a "stationary source" as that term is defined at Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

10. Respondents' refrigeration system uses approximately 6,000 pounds of anhydrous ammonia. Accordingly, Respondents "store" and "handle" anhydrous ammonia which, as indicated in paragraph 4 above, is an "extremely hazardous substance" subject to the General Duty Clause. Ammonia presents a significant health hazard because it is corrosive to the skin, eyes, and lungs. Exposure to 300 parts per

million is immediately dangerous to life and health. Ammonia is also flammable at concentrations of approximately 15% to 28% by volume in air. It can explode if released in an enclosed space with a source of ignition present, or if a vessel containing anhydrous ammonia is exposed to fire.

11. The Facility's ammonia refrigeration system was installed in 1965, and Respondent, Connecticut Freezers, Inc., acquired the Facility in 1994.

12. On May 25, 2011, an anhydrous ammonia release occurred at the Facility, releasing approximately 5,000 pounds of ammonia (the "Incident" or "Release").

13. On May 25, 2011 at approximately 8:00 p.m., customers from a nearby IKEA store reported a strong odor and called 911. Fire department personnel responding to the call noticed a white vapor cloud billowing up from under the Facility. The Release necessitated the evacuation of several thousand people in nearby establishments such as the IKEA store, an Amtrak maintenance facility, and a night club. The Incident was declared over at approximately 10:45 a.m. on May 26, 2011.

14. A follow-up accident report, which Maritime International submitted to EPA on June 27, 2011, indicated that the Release occurred from a leak in a pipe that ran through a crawl space under the building. This pipe line was pressurized back to the System's receiver vessel. An electronic mail message, dated December 14, 2011, indicated that the leak occurred after bracket supports holding a pipe coupling came loose.

15. Following the Incident, on May 31, 2011, Respondents had the source of the release referenced in paragraph 14 isolated, cut, and capped.

16. On June 21, 2011, approximately 27 days after the Release, Respondent, Maritime d/b/a Connecticut Freezers, notified the National Response Center of the Release.

17. Also, on June 21, 2011, EPA inspectors visited the Facility to investigate the accident and assess Respondents' compliance with Section 112(r) of the Clean Air Act.

18. On June 28, 2011, EPA issued a list of follow-up questions, which Respondent, Maritime International, answered on July 26, 2011.

19. Among other things, EPA's inspection and review of information submitted to EPA revealed that, at the time of the Incident, Respondents:

- a. did not have critical information about the components of the ammonia refrigeration system ("System") that would allow Respondents to adequately maintain and inspect the System's equipment. For example, Respondents had no refrigeration flow diagrams; information about safe operating parameters; manufacturer's information and recommendations about the equipment in the System; or information about the codes or standards that applied to the system;
- b. did not have maintenance information or a maintenance protocol for key components of the System, such as pressure relief valves, ammonia detectors, and piping;
- c. were not employing a comprehensive preventative maintenance program that covered all System components, including the piping from which the Release occurred.

- d. did not have information about the life expectancy of the piping (or other refrigeration components), although the Facility's own Integrated Contingency Plan referenced that piping should be replaced and/or reconditioned at the end of its life expectancy;
- e. did not have labels or markings to identify refrigeration system components;
- f. did not have set points or calibration information available to maintain or test ammonia sensors;
- g. had never obtained an independent audit of the System; and
- h. had not conducted a hazard analysis of the System, using appropriate hazard assessment techniques.

NOTICE OF VIOLATIONS

I. FAILURE TO IDENTIFY HAZARDS

20. The allegations in Paragraphs 1 through 19 are hereby realleged and incorporated herein by reference.

21. Pursuant to the General Duty Clause, Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, processing, handling or storing extremely hazardous substances have a general duty to identify hazards which may result from accidental releases of such substances, using appropriate hazard assessment techniques.

22. As alleged above, Respondents own and/or operate a stationary source storing an extremely hazardous substance and are therefore subject to the General Duty Clause.

23. Also, the Incident was an accidental release into the ambient air, within the meaning of Section 112(r)(2) of the CAA, 42 U.S.C. § 7412(r)(2).

24. The inspection revealed that Respondents had not identified the piping referenced in paragraph 14 from which the Release occurred as being a potential source from which ammonia could be released (or as part of the System that needed to be maintained).

25. Respondents had not conducted a hazard analysis of the System, using industry-recognized hazard assessment techniques.

26. By failing to conduct a hazard analysis of the System and by failing to adequately identify the potential hazards associated with the piping referenced in paragraph 14, Respondents failed to identify hazards, using appropriate hazard assessment techniques, as required by the General Duty Clause, Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

II. FAILURE TO DESIGN AND MAINTAIN A SAFE FACILITY

27. The allegations in Paragraphs 1 through 26 are hereby realleged and incorporated herein by reference.

28. Pursuant to the General Duty Clause, Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), owners and operators of stationary sources producing, processing,

handling or storing extremely hazardous substances also have a general duty to design and maintain a safe facility, taking such steps as are necessary to prevent releases.

29. *Lack of Refrigeration System Documentation:* As described in Paragraph 19(a) and (d) above, Respondents did not have critical information about the components of the System that would allow Respondents to adequately maintain and inspect the System equipment. For example, Respondents had no refrigeration flow diagrams; information about safe operating parameters; manufacturer's information and recommendations about the equipment; information about the life expectancy of the piping; or information about the codes or standards that applied to the System. The recommended industry practice and standard of care for ammonia refrigeration systems of this size would be to maintain refrigeration system documentation, such as refrigeration flow drawings, equipment lists, and manufacturer's information, to help personnel identify hazards posed by the system and maintain the system. See, for example, the International Institute of Ammonia Refrigeration's ('IIAR') *Ammonia Refrigeration Management Program*, Section 3; and IIAR Bulletin No. 109, *IIAR Minimum Safety Criteria for a Safe Ammonia Refrigeration System*, Section 4.

30. *Lack of Comprehensive Preventative Maintenance Program:* As described in Paragraph 19(b), (c), (f), and (g) above, Respondents did not have maintenance information or protocols for key components of the refrigeration system, such as pressure relief valves, ammonia detectors, and piping. Nor were Respondents employing a comprehensive preventative maintenance program that covered all system components, including the piping from which the Release occurred. Also, Respondents had never obtained an independent audit or inspection of the System. Finally,

Respondents did not have set points or calibration information available to maintain or test ammonia sensors. The recommended industry practice and standard of care for ammonia refrigeration systems of this size would be to employ and document a preventative maintenance program, after identifying all the equipment that is critical to safely operate the System and determining what tests and inspections should be used to maintain equipment. See, for example, IIAR's *Ammonia Refrigeration Management Program*, Section 5 and Appendix 5.1; IIAR Bulletin 110 *Startup, Inspection and Maintenance of Ammonia Mechanical Refrigerating Systems*; and IIAR Bulletin No. 109, *IIAR Minimum Safety Criteria for a Safe Ammonia Refrigeration System*.

31. *Inadequately Labeled System Components:* As described above in paragraph 19(e), at the time of the Incident, Respondents did not have labels or markings on many of the System components to identify them. The recommended industry practice and standard of care for ammonia refrigeration systems of this size would be to label system components. See, for example, the IIAR's *Ammonia Refrigeration Management Program*, Section 4; and IIAR Bulletin No. 109, *IIAR Minimum Safety Criteria for a Safe Ammonia Refrigeration System*.

32. Accordingly, by failing to have (a) appropriate refrigeration system documentation; (b) an adequate preventative maintenance program; and (c) labeled System components, Respondents failed to design and maintain a safe facility, as required by the General Duty Clause, Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1).

ADMINISTRATIVE ORDER

33. **As soon as possible, but no later than March 31, 2012**, Respondents shall submit a work plan and schedule to correct the deficiencies alleged above in paragraphs 24, 25 and 29 through 31. This schedule and work plan, once approved by EPA, shall be enforceable under this AO. All work must be completed no later than June 30, 2012.

34. **After completing the work required by paragraph 33 above, and no later than June 30, 2012**, Respondents shall submit documentation of its compliance. Such documentation should include, for example, copies of refrigeration flow diagrams, information about operating parameters, revised maintenance logs, information about the age and replacement schedule for System equipment and piping, pictures of appropriately-labeled refrigeration components, etc.

35. If Respondents choose to stop operation of the System before March 31, 2012, Respondents may document compliance with the AO by submitting documentation proving that the System is no longer operational and that the ammonia has been removed by an industry specialist.

36. Notice: Respondents shall submit all notices, schedules, work plans, analyses, certification, and documentation required by this order to:

Jim Gaffey, Chemical Engineer
RCRA, EPCRA, and Federal Programs Unit (SER)
Office of Environmental Stewardship
EPA Region 1
Mailcode: OES05-1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

REPORTING REQUIREMENT

37. In addition to the compliance documentation required by paragraphs 34 and 35 above, pursuant to Section 114(a)(1) of the CAA, 42 U.S.C § 7414(a)(1), Respondents shall submit the following information, audits, and reports to the EPA staff listed in paragraph 36:

- a. *Within thirty (30) days of the effective date of this NOV/AO/RR:*
 - i. Provide EPA with an estimate of the cost savings realized, if any, by failing to comply with the General Duty Clause in the last five years (i.e., since January 1, 2007). Include all costs, including, but not limited to, costs associated with contractor fees, equipment upgrades, paperwork, and facility upgrades.
 - ii. Provide information on Respondents' net worth and annual sales for 2007 through 2012.
 - iii. Provide the date(s) on which the Standard Operating Procedures for the Facility were written and put in place.
 - iv. Provide a copy of any audits or hazard analyses completed for the 1 Brewery Street facility since July 26, 2011, that pertain to the Incident and/or the company's handling and storage of ammonia including audits or hazard analyses by process safety management specialists, refrigeration specialists, or insurance agencies.
- b. *Within sixty (60) days of the effective date of this NOV/AO/RR:* provide copies of any hazard analyses that Respondents have conducted in

accordance with Section 112(r)(1) of the CAA for the ammonia refrigeration systems at the following facilities, using appropriate hazard assessment techniques:

- i. Hartford Freezers, 241 Park Ave., East Hartford, CT
- ii. West Terminal, 289 MacArthur Drive, New Bedford, MA
- iii. Bridge Terminal, Inc., 12 Fish Island, New Bedford, MA.

If the Respondents responsible for compliance at these facilities have *not yet* conducted hazard analyses for these facilities, the responsible

Respondents shall conduct and submit such analyses. The hazard analyses must be dated on the day that they are completed. Guidance for conducting such hazard analysis is available in International Institute of Ammonia Refrigeration publications and EPA's *Guidance for Implementation of the General Duty Clause of the Clean Air Act Section 112(r)(1)*, found at

<http://www.epa.gov/oem/docs/chem/gdcregionalguidance.pdf>.

- c. *Within ninety (90) days of the effective date of this NOV/AO/RR:* Provide a copy of the Risk Management Plan, completed in accordance with 40 C.F.R. Part 68, for any of Respondents' ammonia refrigeration systems that contain more than 10,000 pounds of ammonia.

ENFORCEMENT

38. At any time after the issuance of this AO, EPA may take any or all of the following actions: issue a further order requiring compliance with the Act; issue an

administrative penalty order for up to \$37,500 per day for each violation; or bring a civil or criminal action seeking an injunction and penalties. See Sections 113(a)-(d) of the CAA, 42 U.S.C. §§ 7413(a)-(d); 40 C.F.R. Part 19; and 73 Fed. Reg. 75340-75346 (December 11, 2008) (CAA penalties raised from \$25,000 to \$32,500 for violations occurring between March 15, 2004 and January 12, 2009, and to \$37,500 for violations occurring after January 12, 2009). Be advised that Section 113(e)(2) of the Act, 42 U.S.C. § 7413(e)(2), contains provisions that affect the burden of proof with respect to violations which continue following issuance of a Notice of Violation.

39. Be advised that issuance of this NOV and AO does not preclude EPA from electing to pursue any other remedies or sanctions authorized by law that are available to address these and other violations. This NOV and AO do not resolve Respondents' liability for past violations of the Act or for any violations that continue from the date of this NOV and AO up to the date of compliance.

40. Neither EPA nor the United States, by the issuance of this NOV/AO/RR, assumes any liability for any acts or omissions by Respondents or Respondents' employees, agents, contractors or consultants engaged to carry out any action or activity pursuant to this NOV/AO/RR; nor shall EPA or the United States be held as a party to any contract entered into by Respondents or Respondents' employees, agents, contractors or consultants engaged to carry out the requirements of this NOV/AO/RR.

EFFECTIVE DATE AND APPLICABILITY

41. The NOV/AO/RR shall take effect within fourteen (14) days of receipt. The AO shall apply to Respondents, their officers, agents, servants, employees,

successors and assigns, and to all persons, firms and corporations acting under, through or for Respondents. This action is not subject to Office of Management and Budget review under the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

42. If Respondents have any questions regarding this NOV/AO/RR, please contact Jim Gaffey at (617) 918-1753, or have your legal counsel contact Catherine Smith, Senior Enforcement Counsel, at (617) 918-1777. Respondents may request an opportunity to confer with EPA about this NOV/AO/RR by contacting Jim Gaffey or Catherine Smith at the phone numbers listed above within seven (7) days of receiving this NOV/AO/RR.

Sam Silverman, acting for
Susan Studlien, Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region 1 – New England

12-30-11
Date